



marketing of Illinois LLC

Attachment 3 Reciprocity Certification and Discussion

2010 Hogback Rd., Suite #4
Ann Arbor, MI 48105
FEIN # 16-1661698

Nordic Marketing of Illinois, L.L.C. ("Nordic") does not own any transmission or distribution lines. Nordic is not able to provide the name of a principle electric source at this time for service to customers in the ComEd territory, as the source will be unknown until after certification as an ARES.

Section 16-115 (d) (5) states:

That if the applicant, its corporate affiliates or the applicant's principal source of electricity (to the extent such source is known at the time of the application) owns or controls facilities, for public use, for the transmission or distribution of electricity to end-users within a defined geographical area to which electric power and energy can be physically and economically delivered by the electric utility or utilities in whose service area or areas the proposed service will be offered, the applicant, its corporate affiliates or principal source of electricity, as the case may be, provides delivery services to the electric utility or utilities in whose service area or areas the proposed service will be offered that are reasonably comparable to those offered by the electric utility, and provided further, that the applicant agrees to certify annually to the Commission that it is continuing to provide such delivery services and that it has not knowingly assisted any person or entity to avoid the requirements of this Section. For purposes of this subparagraph, "principal source of electricity" shall mean a single source that supplies at least 65% of the applicant's electric power and energy and the purchase of transmission and distribution services pursuant to a filed tariff under the jurisdiction of the Federal Energy Regulatory Commission or a state public utility commission shall not constitute control of access to the provider's transmission and distribution facilities;

Nordic argues that to meet the reciprocity requirements in Section 16-115(d)(5) of the Public Utilities Act in light of the Appellate Court decision in *Local Union Nos. 15, 51 and 702, International Brotherhood of Electrical Workers v. Illinois Commerce Commission*, 265 Ill. Dec. 302, 772 N.E.2d 340 (5th Dist. 2002), it would have to own transmission and distribution lines that would allow the Illinois utilities the opportunity to physically and economically deliver electricity to Nordic customers. Nordic reiterates that it does not own any transmission or distribution lines however Nordic believes that it satisfies the reciprocity requirement in another manner.

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The section "...or the applicant's principal source of electricity (to the extent such source is known at the time of the application) owns or controls facilities..." coupled together with the definition clause at the end of Section 16-115, "For purposes of this subparagraph, "principal source of electricity" shall mean a single source that supplies at least 65% of the applicant's electric power and energy and the purchase of transmission and distribution services pursuant to a filed tariff under the jurisdiction of the Federal Energy Regulatory Commission or a state public utility commission shall not constitute control of access to the provider's transmission and distribution facilities;" shows a legislative intent to include power purchasers who are not transmission owners in the ARES certification process.

Even reading the opening clause as the Court interpreted the phrase would result in the following, "That on condition that the applicant, its corporate affiliates or the applicant's principal source of electricity (to the extent such source is known at the time of the application) owns or controls facilities..." would not preclude an applicant that does not own transmission or distribution facilities from certification.

The clause defining "principal source of electricity" clearly allows that an applicant could purchase at least 65% of the electric power and energy, as well as purchasing transmission and distribution services from a supplier who has a filed tariff with the Federal Energy Regulatory Commission ("FERC"). To purchase power and energy from wholesale power marketers, Nordic is restricted to dealing only with marketers who are regulated by FERC. To schedule the power to flow to the customers on any transmission and distribution line, Nordic is restricted to deal with transmission operators/owners and distribution owners who again are regulated by FERC. Nordic will not be able to serve customers in Illinois without certification from State agencies, thus satisfying the definition above.

Nordic reiterates that the reciprocity requirement of owning facilities does not apply to power marketers who do not own transmission and distribution lines. The part of Section 16-115 (d) (5) that refers to a principal source of electricity "to the extent it is known at the time of application", shows that power marketers who are not transmission owners was foreseeable at the time of promulgation.

Retail electric suppliers who do not own transmission or distribution facilities purchase the rights to move the power and energy to the customers from the utility. The utility is able to recoup the costs filed in its tariff with FERC as well as the expenses of operating and maintaining the lines. These fees allow the transmission and distribution owners to make a profit while allowing the marketer to serve their customers. In the competitive retail electric markets, this has served well for all parties involved in the transactions.

Likewise retail electric suppliers who do not own generation facilities purchase power and energy from wholesale power marketers at market based rates that are regulated by FERC. This allows for the wholesale power marketers to make a profit that the market will bear on the excess power produced. This also allows the retail power marketers (like Nordic) to shop around for the lowest possible power pricing to better benefit the customers.

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Systems such as described above permit the customer the greatest benefit with competitive energy prices and system stability. Transmission and distribution systems do not become strained or overloaded through retail electric marketing. The power serving 100 customers in a utility's service territory, that later switch to the retail marketer, are the same customers, using the same transmission and distribution lines. These are not new additional customers who may in the aggregate strain a system.

Competitive electric retail sales give the customers of a state who has deregulated the opportunity to enjoy savings. This has a tremendous trickle down affect on intrastate commerce and eventually interstate commerce. Businesses who have to make a decision regarding relocating can locate in a state with lower electric pricing and benefit the state with new jobs and manufacturing. Competitive electric retail sales within a state not only can bring new employment but help retain current employment levels.

The Illinois utilities or owners of the transmission lines will continue to be obligated to maintain the transmission and distribution lines. The electric linemen and switchyard operators will continue to perform maintenance on the systems just as if competitive marketing never occurred in a state. The affect of competitive retail sales will be transparent to the status quo.

To deny Nordic and other retail electric marketers certification because they do not own transmission and distribution lines or facilities but instead pay for the use of the same lines and facilities, denies the Illinois electric customers the opportunity to experience savings on electricity. To require that Nordic or other retail electric marketers purchase power in advance to serve Illinois customers prior to certification would be unjust. The legislative intent when drafting the Act was to offer the Illinois electric customers a choice and opportunity to enjoy savings on electricity.

Public policy should prevent conditions to be placed on the Applicants that will ultimately limit the Illinois retail marketers to only the utilities and company's who own lines that connect with the transmission and distribution lines in Illinois and currently are a competitive electric state. The Illinois legislature could not have intended to handcuff the proposed competitive market in such a restrictive method. This interpretation of the Act would result in only a few utilities that could satisfy Section 16-115 (d) (5).

Nordic contends that to achieve a balance between the public purpose to provide electric competition and the continued interest in equity for the utilities, the Commission may have to recognize that some ARES applicants such as Nordic satisfy the reciprocity requirements through energy and transmission purchases. Nordic believes that it can provide the customers of Illinois safe, reliable and affordable power while assuring the utilities a return on their investments within the state.

Nordic further certifies that it will comply with Section 16-115(d)(5) of the Act [220 ILCS5/16-115(d)(5)], and that it will remain in compliance with such requirements and will annually certify such compliance to the Commission within 30 days after the anniversary date of its certification.

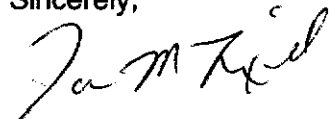
Nordic certifies that once certified as an Alternative Retail Electric Service supplier it will continue to provide such delivery services and that it will not knowingly assist any person

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or entity to avoid the requirements of this Section (Section 16-115(d)(5) of the Act [220 ILCS5/16-115(d)(5)]).

Sincerely,

A handwritten signature in cursive script, appearing to read "Joni M. Fixel".

Joni M. Fixel
Vice President of
Business Development
Nordic Marketing of Illinois, L.L.C.